

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PENN GRAPHICS EQUIPMENT CO., INC.

V.

C.A. NO. 06-3247

GLOBALTEC INNOVATIONS, CORP.

MEMORANDUM OPINION AND ORDER

GOLDEN, J.

OCTOBER 30, 2006

Plaintiff brought this breach of contract action against the Defendant corporation, seeking damages in the amount of \$442,449.08. Defendant filed a pro se Answer to the Complaint, with affirmative defenses and a counterclaim. The pleading was signed and filed by the President of the Defendant, without the assistance of counsel. Attached to the pleading are two affidavits. In the first affidavit, Defendant's President asserts that the Defendant has no assets and therefore requests the Court's "indulgence" in permitting Defendant to proceed without counsel. The second affidavit is a factual narrative of Defendant's contentions. Presently before the Court is the motion of the Plaintiff to strike Defendant's responsive pleading and exhibits as well as Plaintiff's motion for entry of default

and a motion for default judgment. For the reasons which follow, the motion to strike will be granted and the motions for default and default judgment will be denied without prejudice.

Plaintiff argues that Defendant's responsive pleading must be stricken because a corporation cannot represent itself in federal court. We agree.

It is well-settled that a corporation, or similar organizational entity, may not proceed pro se and must be represented by legal counsel. Mazzoni v. United States, 2006 WL 1564020 (E.D.Pa. 2006); Pa. Bus. Bank v. Biz Bank Corp, 330 F.Supp. 2d 511, 513 (E.D.Pa. 2004) (corporation may not appear pro se and may not be represented by anyone other than licensed counsel). While a party may, generally, bring its case in person or by counsel under 28 U.S.C. § 1564, a corporation's in propria persona appearance is impossible because an organizational personality is merely a legal fiction. MOVE Organization v. Dept. of Justice, 555 F.Supp. 684, 693 (E.D.Pa. 1983). "Thus courts have repeatedly held that corporations and other organizations must be represented by counsel." Id.

Since Defendant is a corporation, it cannot defend itself pro se, even if lacks financial resources. Accordingly, the Court has no choice but to strike Defendant's responsive pleading and the affidavits attached thereto. The Court will not enter a default or

default judgment at this time. Instead, the Court will allow Defendant a period of 20 days from the date of this Order to secure legal counsel and an additional period of 10 ten days from the entry of appearance for such counsel to file a new responsive pleading. If within 20 days of the date of this Order the docket reflects that no counsel has entered an appearance on behalf of the Defendant, the Plaintiff may renew its motion for default and default judgment.

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ORDER

AND NOW, this 30th day of October, upon review of the Plaintiff's motion to strike and the Defendant's response thereto, it is hereby ORDERED that :

The motion of the Plaintiff to strike Defendant's responsive pleading [Doc. #4] is GRANTED.

The pro se Answer filed by the Defendant on September 15, 2006 and the exhibits attached thereto are STRICKEN from the docket.

The motion of the Plaintiff for default [Doc. #4] is DENIED WITHOUT PREJUDICE.

The motion of the Plaintiff for default judgment [Doc. #4] is DENIED WITHOUT PREJUDICE.

If within 20 days of the date of this Order the docket reflects that no counsel has entered an appearance on behalf of the Defendant, the Plaintiff may renew its motion for default and default

judgment.

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BY THE COURT:

THOMAS M. GOLDEN, J.